

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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BROAD OCEAN TECHNOLOGIES, INC.,  
Petitioner,

v.

REGAL BELOIT AMERICA, INC.,  
Patent Owner.

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Cases IPR2017-00802 and IPR2017-00803  
Patents 5,954,476 and 6,318,358 B1

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Before MITCHELL G. WEATHERLY, TIMOTHY J. GOODSON, and  
SCOTT C. MOORE, *Administrative Patent Judges*.

WEATHERLY, *Administrative Patent Judge*.

ORDER  
Conduct of the Proceeding  
*37 C.F.R. § 42.5*

I. DISCUSSION

All three members of the panel conducted a conference call in the above-captioned proceedings on June 30, 2017, to address Petitioner's request for additional briefing to respond to Patent Owner's argument that Petitioner had failed to name all real parties in interest in its Petition in each proceeding as required under 35 U.S.C. § 312(a)(2). In its Preliminary

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Response, Patent Owner argued that Petitioner should have named two entities, Broad Ocean Motor, LLC (“BOM”) and Broad Ocean Technologies, LLC (“BOT”) as real parties in interest and that the failure to do so precludes institution of *inter partes* review. IPR2017-00802, Paper 8, 19–30; IPR2017-00803, Paper 6, 5–17.

Given that the Decisions on Institution in both proceedings are not due until August 24, 2017, the panel finds it appropriate to permit the parties to be heard fully on the issues regarding real parties in interest that are presented in Patent Owner’s Preliminary Responses. Therefore, the panel grants Petitioner’s request for leave to file a paper on the issue and also permits Patent Owner to file its own responsive paper.

During the call, the panel instructed Petitioner to address the following questions assuming *arguendo* that BOM should be named as a real party in interest:

- (i) whether Petitioner would seek to amend the Petition to add BOM as a real party in interest;
- (ii) if Petitioner answers (i) in the affirmative, whether the filing date of the Petition would require adjustment; and
- (iii) if Petitioner answers (ii) in the affirmative, whether the Petition would be time-barred under 35 U.S.C. § 315(b).

Upon further consideration, the panel also instructs Petitioner to address those same three questions assuming *arguendo* that BOT should be named as a real party in interest.

Petitioner shall address these issues and provide any other response to Patent Owner’s argument on real parties in interest in a single paper of no more than eight pages that is filed in both proceedings by no later than

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July 7, 2017. Patent Owner may respond to any arguments advanced in Petitioner's paper by filing a single responsive paper of no more than eight pages that is filed in both proceedings by no later than July 14, 2017.

## II. ORDER

For the reasons given, it is:

ORDERED that Petitioner's request to file a paper in response to Patent Owner's argument that the Petition should be denied for failing to name all real parties in interest is *granted*;

FURTHER ORDERED that Petitioner shall file one paper in both proceedings of no more than eight pages in length by no later than July 7, 2017;

FURTHER ORDERED that Petitioner's paper shall specifically address the questions set forth above; and

FURTHER ORDERED that Patent Owner may file one paper in both proceedings responding to Petitioner's paper, with such paper being no more than eight pages in length and filed by no later than July 14, 2017.

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